



Missouri Department of Natural Resources

MINUTES MISSOURI SOIL AND WATER DISTRICTS COMMISSION DNR Conference Center Jefferson City, Missouri March 23, 2004

COMMISSION MEMBERS PRESENT: Elizabeth Brown, Larry Furbeck, Philip Luebbering, Kirby VanAusdall

EX-OFFICIO MEMBERS: DEAN THOMAS PAYNE, UNIV. OF MISSOURI: David Baker; JOHN HOSKINS, DEPT. OF CONSERVATION: Brad McCord; PETER HOFHERR, DEPT. OF AGRICULTURE: Glenna Burre; STEPHEN MAHFOOD, DEPT OF NATURAL RESOURCES: Scott Totten

ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM: Sarah Fast; NRCS: Roger Hansen; MASWCD: Steve Oetting

STAFF MEMBERS PRESENT: Niki Aberle, Davin Althoff, Gary Baclesse, Jim Boschert, April Brandt, Chris Evans, Noland Farmer, John Forsyth, Rose Marie Hopkins, Gina Luebbering, Dean Martin, Theresa Mueller, Marcy Oerly, James Plassmeyer, Sarah Popp, Josh Poynor, Jeremy Redden, Ron Redden, Kevin Scherr, Judy Stinson, Ken Struempf, Chris Wieberg, Bill Wilson

OTHERS PRESENT: DISTRICTS: BENTON: Willard Gerken, Jamie Henderson, Tina Hovendick; MONTGOMERY: Ruth Schneider, Brenda VaBooven; PETTIS: David Dick, Timothy Knoernschild, John McGinnis; STONE: Fern Langston, WARREN: Chris Merritt; **STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:** Harry Bozoian; NATURAL RESOURCES: Aimee Davenport, Denise Evans; **OTHERS:** MASWCD: Peggy Lemons; USDA-NRCS: Dennis Potter; **INDIVIDUALS:** Dan Blackburn, Gary Powell

A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at DNR Conference Center in Jefferson City, Missouri, in the Bennett Springs/Roaring River room at 9:50 am.

B. MINUTES OF THE LAST MEETING

Larry Furbeck made a motion to approve the minutes of the February 18, 2004 commission meeting as mailed. Kirby VanAusdall seconded the motion. When asked by

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the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

Kirby VanAusdall made a motion to approve the minutes of the February 18, 2004, closed meeting. Larry Furbeck seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

C. PLANNING

1. Natural Resource Conservation Service (NRCS) Update

Roger Hansen presented a report on fiscal year (FY) 2003 and FY2004 funds. The total amount of financial assistance to Missouri producers for practices in FY2003 was \$43,150,000, compared to \$41,410,000 for FY 2004. These funds were for EQIP: in FY2003 the amount was \$14,100,000 and \$17,800,000 for FY2004; WRP: \$18,500,000 for FY2003 and \$14,700,000 for FY2004; GRP: \$1,900,000 for FY2003 and \$3,200,000 for FY2004.

Statewide in FY2003 Environmental Quality Incentive Program (EQIP) received 2,996 applications and 514 were funded for an amount of \$14,142,352. This amount broke down to 1 percent for streambanks, 13 percent for Limited Resource Farming (LRF), 16 percent for new farmers, and 70 percent was for Non-Limited Resource Farming (NLRF). Out of the 514 total applications, 134 were for animal waste, 233 were for grazing, and 146 were for other resource concerns. The 134 for animal waste were made up of 15 for turkey, 45 for swine, 18 for dairy, 22 for chicken, 28 for beef, and 6 for other. Grazing included 54 for new 4-7 paddocks, 5 for existing systems, and 238 for new with 8 or more paddocks.

For FY2003, the number of EQIP contracts addressing resource concerns ranged from 340 contracts for water quality down to 10 contracts for agroforestry. Some of the other areas of concern were buffers, well plugging, animal waste, grazing systems, pest management, soil erosion, livestock exclusion, and quail habitat.

For FY2004, it was reported that the state would be broken down more to 23 geographical areas to help distribute funds. Approximately \$150,000 in EQIP funds will be allocated to each county to address high priority resources concerns. He reported that there were 20 or 30 counties that had never had an EQIP contract. If the county does not use all of the \$150,000, the remainder of the funds would be used in other counties in the region.

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Mr. Hansen briefly reviewed the new FY2004 EQIP scoring worksheet. The first three questions addressed water quality issues, the next four questions address livestock concerns, and other concerns addressed include cropland, wildlife/forestry, compliance with regulations, cost effectiveness, and local resource priorities. The higher the total score received by an applicant on the worksheet, the better the chance of being funded in that county.

The cost-share rate for FY2004 for non-limited resource farmers is generally 50 percent, which is the same as last year. The rate dropped to 30-40 percent on some individual practices. The rate for limited resource farmers last year was 90 percent cost-share, which has been reduced to 75 percent for most practices. Animal waste and terrace systems remain at 90 percent for limited resource farmers.

Next, Mr. Hansen covered the calculation of soil loss. Prior to January 1998, soil loss calculations were made using the Universal Soil Loss Equation (USLE). In January 1998, the Revised Universal Soil Loss Equation (RUSLE) was adopted. Starting July 1, 2004, RUSLE2 will be implemented. One of the advantages of RUSLE2 is that rainfall will be reflective of a daily precipitation event, versus monthly events.

In regard to the National Resources Inventory (NRI) numbers, Mr. Hansen stated that a special run was requested for Missouri that should be available in May. This report would be a preliminary estimate prior to publication of the computer report.

Mr. Hansen also reported on the Conservation Security Program. This is a new program included in the 2002 Farm Bill that NRCS will implement later in the summer. According to the amount of conservation applied, there will be a rental payment based on so much per acre. There is not a lot of money available this year, but in FY2005 there could be \$1,700,000 available.

In response to a question about the 75 percent cost-share, Mr. Hansen answered that the 75 percent was just for limited resource farmers. When asked about how RUSLE2 was going to effect erosion, per Mr. Hansen, the erosion rates would be higher on some grassland than the rate shown by RUSLE. In response to a question on what is the limiting factor for additional conservation progress, Mr. Hansen stated that he saw the lack of technical and financial resources to meet the demand of everyone wanting to do conservation work. He stated that 80 percent of those applying for EQIP last year were not approved due too the lack of these resources.

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2. Soil Science Update

Dean Martin presented an update on soil science. In July the commission was given an extensive overview regarding soil science. At the July meeting, the commission was informed about Phases I and II of the soil survey update process. The initial fieldwork has been completed, and now is in Phase I of the update. The information gathered in the initial inventory is in the process of being published. This information could be on a CD or on the web. It is no longer only available in a written document. Mr. Martin informed the commission that at <http://soil.missouri.edu>, there was extensive soil information.

Phase I of the survey was reported to be on schedule. In this phase, the information gathered during the fieldwork is under in-depth review. This is a critical part of the process. At the end of the process, there will be a better product by the first part of 2006 that will produce good information for priorities in Phase II.

In addition, soil scientists are doing update work and also providing technical assistance to the districts and landowners. Mr. Martin provided the commission with a list of the soil scientists for DNR and NRCS with their phone numbers and where they are located.

Dennis Potter from NRCS stated that Missouri was taking a very proactive approach to the maintenance of the soil survey. He also stated that the initial soil survey was done over seven decades. Mr. Potter informed the commission that Missouri is a national leader in the soil survey process.

D. REVIEW/EVALUATION

1. Land Assistance Section

a. Cost-Share

1. Monthly Cost-Share Usage and Fund Status Report

Noland Farmer reported that districts had been allocated approximately \$23,100,000 for the present fiscal year. This amount included an additional allocation from the FY2003 re-appropriated funds.

It was projected that only \$20,000,000 of the funds allocated would be claimed, because it is very unlikely that the entire amount allocated to the districts would be claimed. This projection was based on previous years.

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As of February 29, 2004, \$9,300,000 in claims had been processed, which was \$1,200,000 short of the \$10,500,000 that was projected. Only \$1,000,000 in claims was received in February, which was less than the \$2,000,000 projected.

As of March 12, 2004, \$9,900,000 in claims had been received. It was projected that by the end of March, \$12,500,000 in claims would be received. This amount is less than last fiscal year, which was \$13,300,000 for the same time period.

2. District Assistance Section

a. FY2005 District Assistance Allocation

Jim Boschert presented a review of the FY2005 district assistance grants. The four grants are available to the districts to help with personnel and administrative costs. They are the district assistance allocation, matching grant, district employee benefit grant, and the information/education grant.

The total available for the district assistance grants for FY2005 is \$7,911,992. This total includes an allocation of \$6,400,000 plus \$1,261,992 for the employee benefit grant and \$250,000 available through the information/education grant.

Mr. Boschert stated that for the upcoming fiscal year, that begins July 1, there were no additional funds available in the district assistance allocation and no concerns had been heard of from the districts. According to commission policy, the district's district assistance funding would not be reduced from one year to the next to maintain stability for the local district board. The commission was asked if they had any new direction for staff for the FY2005 district assistance allocation. The commission responded that they had no new direction.

Mr. Boschert informed the commission the districts would be notified, after the appropriation process is complete, that their allocation for FY2005 would be the same as FY2004.

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E. APPEALS

1. Special Area Land Treatment (SALT)

a. Stone Soil and Water Conservation District (SWCD) – Spring Creek Project Termination

Davin Althoff presented an appeal from Stone SWCD on the Spring Creek SALT project termination on March 31, 2004. A letter dated February 27, 2004, from the district-expressed concern of the termination of the Spring Creek Agricultural Nonpoint Source (AgNPS) SALT project effective March 31, 2004.

Mr. Althoff noted that the commission was updated at the February 18, 2004 meeting regarding the status of the Spring Creek AgNPS SALT project. Staff reported to the commission that the Fall FY2004 Semi-Annual Progress Report submitted by the district included ineligible progress and failed to meet the required progress. As a result, staff upheld the commission's management strategy policy and terminated the Spring Creek AgNPS SALT project. The district was informed of the termination in a letter from the program at that time.

During the February 18, 2004 meeting, staff updated the commission regarding the minimal goals and objectives that had been achieved during the life of the project. The main goals of the Spring Creek SALT project were erosion control; pasture management; information/education; riparian protection and nutrient management. Limited erosion control and pasture management were the only goals accomplished outside of the information/education goal. Erosion control and pasture management were goals that could have been accomplished using regular cost-share that was already available to the district. The remaining goals, with the exception of information/education, riparian protection and nutrient management were goals that required funding from other funds than regular district cost-share funds, such as SALT funding, but had not ever been utilized. With 43 percent (3 out of 7 years) of the project's life over, the minimum progress the district was required to achieve was 17 percent of completion of the goals; however, 12.27 percent of the project's goals and objectives had been met. Approximately 3.8 percent of the progress accomplished was information/education and 8.5 percent was erosion control and pasture management. During the 3-year timeframe of the Spring Creek SALT project, the district did not accomplish any of the additional water quality SALT practices.

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In the letter from Stone County, the district stated that some planning of conservation practices occurred during the previous reporting period but were not implemented.

At a past commission meeting, the commission was informed that in the grant years, the district had not utilized an average of \$52,300 annually for the regular cost-share program. This amount closely matches the dollars spent in the SALT Grant for traditional erosion control practices for those reporting years. As of the date of the meeting, the district had spent approximately \$144,619 for SALT cost-share practices. If the district had charged these expenses in this watershed toward their regular cost-share grant, the district would have been eligible for additional allocations to their original district wide cost-share allocation. It was also reported that the district spent approximately \$171,203 of administrative funds to implement \$144,619 of SALT funds for regular cost-share practices or a 54 percent administrative cost to 46 percent for regular, district wide, cost-share practices.

It was reported that staff had attended a monthly district board meeting and visited three other times with the district to provide assistance. Staff also attempted to negotiate with the district to reduce the original goals, along with management funds, as stated in the original watershed plan. However, the district chose to continue in efforts to achieve the original goals stated in the watershed plan and work out the issues identified in reaching their goals.

Mr. Althoff stated that if the commission chose to continue with management strategy policy and terminate the project, the grant would end on March 31, 2004, and the district would be required to return any unspent SALT funds to the commission.

Fern Langston, Stone SWCD District Manager, stated that they normally obligate all their funds from their regular accounts. Sometimes they are carried over to the fall because they have to apply lime six months prior to the start of the project. They did use part of their regular cost-share funds in the SALT project on DSL-1 and other practices. They also have several people that signed up for the AgNPS SALT for DSP-3 and those different projects, but they were unable to do them because Stone County does not have the technical certification to do them. One landowner signed up in the spring of 2001 and nothing happened so he signed up again in 2002 and again nothing happened. When Stone County informed their area NRCS, they did sign the landowner up, but they still did not have a

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completed plan. The landowner became discouraged and quit. Ms. Langston stated that since they had their information/education activities they have had a lot of different projects come forth, such as nutrient management.

Ms. Langston informed the commission that the program did not accept some of the progress they had counted. She stated they had 13.34 percent that they were to reach for their goals, but they thought they had reached 14.12 percent. The percentage was taken down to 12.27 percent, which is 1.7 percent below the projected goals needed. According to Ms. Langston, the project could not be completed without the help of NRCS. She also stated the project was a good project or they would not have put it in. It is a tributary to the James River and Table Rock Lake, and they are concerned about the water quality. Stone County just finished up three other projects with regular cost-share on another James River project.

According to Elizabeth Brown, the commission is concerned when a SALT project does not achieve its goals, because there are other areas waiting to have SALT projects and the commission wants to spend the money where it is going to be best served. In response to a question about regular cost-share going into a SALT project, Ms. Langston stated they were told that was what they needed to do. Larry Furbeck asked why weren't the SALT funds in addition and Ms. Langston stated they thought it was suppose to have been, because on the application it stated that erosion, DSL-1, DSL-2, DSP-3 should be in the SALT fund. Some of the confusion was that they were told to use regular cost-share funds for these types of practices. When asked about certification, Ms. Langston stated they couldn't certify DSP-3 grazing, nutrient management, or pest management systems. When asked if they were up to the percentage they needed to be, Ms. Langston stated they would be with newsletters, news articles, and the items they had. Philip Luebbering stated his concern was the ratio between the amount spent on cost-share and the administrative cost. According to Ms. Langston, some of the administrative funds were supposed to be moved down to the cost-share. Roger Hansen informed the commission that as districts start to develop SALT projects, NRCS tries to advise districts that NRCS does not get any additional staff time to service these projects. There is a core staff that is available to work with the district.

No motion was made, so current policy remained in force.

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2. Cost-share

a. Pettis SWCD – Landowner Appeal of a Board’s Decision Regarding the Termination Date

Joyce Luebbering presented an appeal from Mr. Dan Blackburn, a landowner from Pettis County, appealing the board’s cancellation of his terrace practice. Mr. Blackburn wanted to have a time extension to allow him to complete the practice and receive payment.

Commission rules state, “Claims for payment received after the termination date shall not be honored unless an amendment for an extension is approved by the board. An amendment for an extension must be approved prior to the termination date.”

On October 23, 2003, the original application was signed by the landowner. An amendment to extend the practice until February 20, 2004 was approved on January 21, 2004. On February 20, 2004, Mr. Blackburn was notified of the termination date. Since Mr. Blackburn did not receive the message until after the district office was closed, on that Monday he contacted the district office to make arrangements to extend the practice. At that time he was informed that his practice had expired and it was suggested he contact the board for guidance on how to appeal the decision. The board decided not to pursue a time extension at the county level, even though Mr. Blackburn appeared before the board March 9, 2004, to appeal the decision.

Ms. Luebbering reported that at the February 20, 2004 termination, 40 percent of the practice was complete. It was also noted that the total eligible cost of the practice was estimated in excess of \$25,000.

Ms. Luebbering stated that in the past, boards have approved time extension claims when the termination date had expired. The boards would submit these claims with a board letter requesting commission approval. The commission gave program staff the authority to approve or deny these termination date appeals depending on the circumstances in September 1990. The Pettis County Board decided not to extend the time or request payment from the commission, because this could cause other landowners to expect a similar result. It was noted that in the last 18 months, Pettis County had never requested providing cost-share assistance when a termination date had past, but the district made three requests for policy exceptions that resulted in payment to the landowner. These requests stemmed from errors by the board of supervisors.

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Dan Blackburn provided the commission with a copy of a timeline for the project and had information on the progress. The job was initiated on October 24, 2003, but the project was delayed due to weather. A completed amendment on January 20, 2004 to extended the project to February 20, 2004, at which time he failed to sign a second extension. He did not get the message that was left about the termination until 7:00 p.m., at which time the office was closed. That Monday, he found out his cost-share had been terminated. He stated it was not the county's staff's responsibility to call the landowner, but he believed that consistency was needed. He felt a letter would have been more appropriate. He stated he was not just trying to prolong the project, but simply receive cost-share for the project. He thanked the commission for hearing his appeal. When asked what percent of the project was complete, Mr. Blackburn stated that three-quarters of the terraces and a fifth of the tile work was done. Gary Powell, who was the contractor, stated the reason they stopped where they did was because there were four tile systems involved. Two of the tile systems were complete. As they started the third and fourth systems it was an easy point to stop.

David Dick, Treasurer of the Pettis County Board of Supervisors, stated they were just acting in accordance with what they thought the rules were. Typically on projects with larger dollar amount the landowners normally go in and sign or request amendments. He also stated landowners that do not normally do cost-share they have to be reminded with a phone call. When asked if the district checked out the work completed, Mr. Dick stated that there was no problem with the work that had been done.

Larry Furbeck made a motion to approve the landowner's appeal. Kirby VanAusdall asked if the amendment was for 30 days. According to Ms. Luebbering the district had given the landowner a 30-day extension, but it does not have to be that length of time. When asked, the board stated a 30-day extension is normal for them. Kirby VanAusdall seconded the motion. Larry Furbeck asked the contractor if he thought he could complete the project in 30 days, and he said he could if the weather held. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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3. Special Area Land Treatment (SALT) - Continued

b. Pettis SWCD – Landowner Appeal of a Board’s Decision Regarding the Termination Date

Ken Struempf presented an appeal from Leonard Knoernschild, a landowner from Pettis County. Mr. Knoernschild was appealing the Pettis Board of Supervisors’ cancellation of his waterway practice. Mr. Knoernschild would like to have the board grant him another extension to allow him to receive payment.

Commission rules state that, “claims for payment received after the termination date shall not be honored unless an amendment for an extension is approved by the board. An amendment for an extension must be approved prior to the termination date.”

The original application for the waterway was approved on October 16, 2003, with a termination date of January 14, 2004. The contractor’s bill indicated the earthwork was started on October 17, 2003 and was completed on October 22, 2003. On December 19, 2003, the district job sheet indicated the earthwork met NRCS specifications, but still needed to be seeded. The district stated that on January 7, 2004, the district clerk contacted and left a message with Timothy Knoernschild’s answering machine regarding the expiration date of January 14, 2004 that was on the original application. The letter also stated that on January 12, 2004, Timothy Knoernschild (who has signing authority for Leonard Knoernschild) replied with questions regarding the lime and seed requirements for the application. The district clerk reminded him again that the application would expire on January 14, 2004. On January 20, 2004, the district received a letter dated January 16, 2004, from Mr. Knoernschild asking for an extension due to inclement weather. The amendment to extend the application was printed and signed by the landowner and technician on January 20, 2004, but the board did not sign the amendment because the original termination date of January 14, 2004 had expired. The lime was purchased on January 12, 2004, from Morris Custom Spreading and the seed and fertilizer were purchased on January 21, 2004, from Ag Coop. On February 3, 2004, the district sent a letter to the program office asking for advice and consideration on the matter. Staff informed the district that the board needs to decide whether to support an amendment for the original application or send a letter to the landowner informing the landowner that his application expired. On February 6, 2004, the landowner’s representative filled out the landowner certification worksheet indicating the waterway had been mulched and the landowner paid Ag Coop for the fertilizer.

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On February 17, 2004, the district informed Mr. Knoernschild that his application for the waterway expired because an amendment was not requested by Mr. Knoernschild by the January 14, 2004, deadline as stated on the original application.

The original application indicated that a cool season grass was to be on the waterway. The receipts indicated switch grass was planted which is a warm season grass. Before planting a warm season grass, an amendment should have been completed.

The original application reimbursement for the waterway was not to exceed \$1539.03. The amount approved was \$1431.43 for the eight acres of the waterway.

Although Mr. Knoernschild has not appeared before the Pettis board asking them to appeal their decision, he has contacted some of the board members.

The Pettis SWCD procedure is that landowners are given a letter explaining the practice with the termination date and a phone number to call with questions. The letter to the landowner states the following, "The termination date can only be extended with an amendment approved by the board. Failure to inform the district board of delays in completing the practice prior to the termination date, or failure to provide the district with the needed documentation can result in landowners losing their cost-share payment or delays in processing your claim"

In a letter from the landowner, he stated he thought he had until January 16, 2004 to get an extension. He also stated that during this time he was working on finishing the waterway, but it was a time of wet weather and muddy conditions. In the letter, he stated he would have signed for an amendment if it had been clearly communicated.

Timothy Knoernschild was present to represent his father. According to Mr. Knoernschild the board called but never left a date, but they were always referring to a week from Friday. When Mr. Knoernschild went to the office on Tuesday, they said something about doing an amendment. Mr. Knoernschild stated that he had been told that they did not want to do an amendment until the last minute and Mr. Knoernschild was to have until Friday. Mr. Knoernschild stated that if they had told him on the Tuesday when he was in the office that the expiration date was the next

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day, then he would have signed the amendment. He was told on that Friday, to sign the amendment and they would appeal the decision, so he went ahead and completed the practice.

In response to a statement about the message left on the answering machine, Mr. Knoernschild stated that the expiration date was not on the message. Mr. Knoernschild informed the commission that it was not even his answering machine that was called, it was his son that they talked to. His son contacted him and said he had been contacted that a week from that coming Friday was the expiration date.

David Dick from the Pettis County Board of Supervisors, stated they followed their standard policy. He also informed the commission that Mr. Knoernschild's son's name is the same as his. When asked if there were any problems with the work, Mr. Dick said the work was fine and complete. When asked what the district's wish was, Mr. Dick stated the project is complete, but since it had not been extended, they did not feel like they could approve it for payment.

Larry Furbeck made a motion to overturn the board's decision, and allow payment on the constructed waterway. Philip Luebbering seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

c. Benton SWCD – Payment for Nutrient Management Regarding Multiple Trusts

Gina Luebbering presented a request from Benton SWCD asking the commission for payment of \$7,004 on multiple trusts under the Nutrient Management N590 practice. The limit for a multiple trust is \$3,000 per year.

In February 2003, four claims were received in the program office for payment. It was noticed that all four claims were to be paid to three different trusts under William H. Flowers. Three out of the four claims had different tax identification numbers, but all were under Mr. Flowers name. With the additional five claims that will be sent in April, the nine claims will total \$7,004. Debra Henderson signed eight of the nine.

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At the time of the application, the handbook stated, “with a limit of \$3,000 per year, per landowner and/or farm.” The program staff wanted direction on the instance regarding multiple trusts that are for the same landowner.

Staff also pointed out the differences between incentive-based practices and cost-share practices.

In a letter dated March 10, 2004, Benton SWCD felt the claims were different landowners. The letter also stated the trusts were for several children and grandchildren receiving shares of the land. The trusts are as follows: The William H. Flowers Family Irrevocable Trust (beneficiaries are children, grandchildren, and Debra Henderson), the William H. Flowers Family Irrevocable Trust (beneficiaries are children and grandchildren), and the William H. Flowers Marital Trust (beneficiary is Betty K. Flowers), and the William H. Flowers Credit Trust (beneficiary is also Betty K. Flowers). Since William H. Flowers is no longer living, the trusts are receiving payments in care of the operator/landowner Debra Henderson.

When asked if there were going to be five more claims, Ms. Luebbering verified there would be five more, but the \$7,004 included those five that were also made before September.

Jamie Henderson, SALT Manager, explained that at the time they were going over the information with the landowner, the specifications had not changed. The district was looking at the practice as a way to get conservation on the land. At the time, the landowner could not have done it on his own. The district discussed the situation with the FSA office and found the tax identification numbers. They thought those would show enough information to point out different landowners. This would give the district a way to help the different trusts to follow through with the nutrient management practices. He also stated he did not know if there was a miscommunication or a misinterpretation of the specifications of the SALT handbook. He informed the commission the district was there in favor of the landowners.

Larry Furbeck asked if the trusts were legally entitled to the funds under rules that the commission had at that time. According to Harry Bozoian they are entitled to what the prior rule was with regard to the practice. Mr. Bozoian asked the district if this was a demonstration practice and if it was, what was the proximity of the farms. Ms. Luebbering stated it was a demonstration and Mr. Henderson confirmed the farms were contiguous.

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Tina Hovendick, District Manager, informed the commission she was not aware of nutrient management as being a demonstration practice.

Philip Luebbering made a motion to approve the request to pay the \$7,004. Larry Furbeck seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

F. REVIEW/EVALUATION - Continued

1. District Assistance Section

a. FY2005 District Employee Benefit Grant

Jim Boschert presented a report on the FY2005 district employee benefit grant.

Last fiscal year, the total for health insurance expenses was \$664,385, retirement was \$303,323, and the total claimed from the benefit grant was \$967,708, which left \$294,284 for increased expenses in health insurance and retirement for the current fiscal year.

For the first two quarters of the current fiscal year, \$356,550 was the amount claimed for health insurance expenses. This amount is an increase of 16 percent over the first two quarters of the last fiscal year. For retirement, \$154,045 was claimed in the same time period. This amount is an increase of 4 percent over the first two quarters of the last fiscal year.

The policies that govern the benefit grant stated that the benefit grant could only be used for health insurance and retirement. Health insurance allocation is based on the least cost premium available through Missouri Consolidated, and there is currently a \$10 copay per month per employee. Retirement salaries are updated twice a year and retirement is 5 percent of the district employee's salary as of July 1 and January 1.

Districts are allowed three different options for paying health insurance. The first one is the district paying the insurance company directly. Another option is that districts can pay the district employee's spouse's employer for coverage for the district employee. The last option is paying the employee directly for individual coverage.

G. REQUESTS

1. District Assistance Section

a. **Texas SWCD – Allow Health Insurance That is Withheld From an Employee's Spouses Check to be Claimed From the Benefit Grant**

Jim Boschert presented a request from Texas SWCD. Texas SWCD wanted the commission to allow insurance payments that are withheld from a district employee's spouse's payroll check to be eligible for reimbursement from the benefit grant.

A letter from the district stated that when the district hired the current clerk, the district agreed to pay her insurance premium. Her premium is \$250 per month which is less than the \$475 that is currently offered for employees at Texas SWCD.

In a letter from the district clerk, she stated that when she accepted the job, she understood that one of the benefits provided by the district would be health insurance. Her insurance premium is withheld from her husband's monthly retirement check. She believed that denying her the benefit of health insurance was unfair. She asked the commission to review the policy to allow employees who have their own insurance to receive the same benefit package as employees who do not.

A letter from Warren and Montgomery SWCD mentioned that the district had been paying this expense for two and a half years and it was reported on the district's quarterly report. The employee's reimbursement of \$459.97 for three months is less than the \$1,271, which is the maximum that can be received from the benefit grant. They also felt that the benefit grant would be better utilized if the commission changed the stipulation provided the employee provides necessary documentation.

Current policy allows districts three options for paying insurance. The last option allows districts to reimburse employees for individual coverage that they pay. With this, the employee provides the district a receipt and the district submits this documentation with the quarterly report.

Memorandum 2001-033 stated that the commission would allow employees to be reimbursed for individual health insurance coverage from the benefit grant. It also stated that the policy change does not affect those employees that have insurance through their spouse's employer. If a check could not be written to the spouse's employer and a receipt provided, then the district or employee could not claim the monthly premium expense.

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Mr. Boschert reported that if the commission allowed districts to claim insurance that is withheld from a spouse's check, then that would increase the amount claimed from the benefit grant. It was noted that 53 district employees eligible for the benefit do not claim health insurance.

According to Peggy Lemons from the benefit committee, the committee has talked about this at length. The benefit committee looked at this from a business position. She explained that districts are like a business, and if compared to other businesses, the way they handle health insurance is when you are hired you take their health insurance or you do not get money to pay for health insurance somewhere else. To keep the program accountable and creditable with the Legislature, the committee felt this was a procedure they needed to recommend to the commission. Benefits would be used for primary health insurance coverage for the employee only and districts would have to write the check to an insurance company or a company. They do not recommend checks written to the employee. In talking with an accountant, Ms. Lemons explained that the rules state that if a check is written to an employee, even though it is for reimbursement for health insurance, that is considered income that must have taxes paid on it.

When asked what the benefit committee's recommendation was, Ms. Lemons stated that if current policy is maintained it would need to be changed to indicate that no checks may be written to individuals. Sarah Fast stated that the district benefit committee was asking the commission to change the policy even further and take away the option of paying the employee direct for individual coverage.

Brenda VaBooven, District Manager from Montgomery County, stated the problem within their district is that the board chose not to offer district insurance through Blue Cross/Blue Shield or Missouri Consolidated. Because of this, the employees were forced to find their own health insurance. Most of the employees did this through their spouses. Ms. VaBooven stated that because of this, this benefit is not available to them. When asked why the board made that decision, Ms. VaBooven stated she did not know. Sarah Fast informed the commission that the board signed a letter requesting the change to allow expenses from the benefit grant. Steve Oetting informed the commission that MASWCD was in support of the recommendation of the benefit committee.

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Larry Furbeck made a motion to maintain current policy. Kirby VanAusdall seconded the motion.

When asked about changing policy to not allow any payments directly to individuals, Ms. Fast stated that Medicare expenses are yearly expenses. Philip Luebbering stated there might be a lot of appeals with a change in the middle of the year. He agreed to maintain current policy and suggested the benefit committee bring proposals to prepare for the beginning of the next fiscal year.

When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

F. REVIEW/EVALUATION - Continued

2. District Assistance Section

b. FY2005 District Employee Benefit Grant

Mr. Boschert continued his report on the benefit grant. The projected cost for next year showed that if the current policy on allocating funds is maintained, the benefit grant would be short by \$12,000 to \$13,000. A change in the participation level could cause the shortfall to either increase or decrease. Staff can determine health insurance premiums for the first six months of next fiscal year, but not for the last six months because they will not be available until August. August is when the numbers are available from Missouri Consolidated for the next fiscal year.

Districts are allocated at the lowest Missouri Consolidated health insurance premium for the county, minus a \$10 copay. For retirement, there is a 5 percent allocation of the employee's gross salary. Salaries are updated twice a year on July 1 and January 1.

At the last commission meeting, the benefit committee presented information regarding increasing the copay. Mr. Boschert asked if there was a need to review the information again. Larry Furbeck stated that the money generated from the copay was based on the assumption that the number of claims would be the same.

Philip Luebbering made a motion to maintain current policies and review expenses in September for possible changes in allocation later in the fiscal year. Kirby VanAusdall seconded the motion. When asked by the chair,

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Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

G. REQUESTS - Continued

2. Land Assistance Section

a. Cost-Share

1. Oregon SWCD – Application With Landowner’s Signature Dated After the Board’s Signature

Niki Aberle presented a request from Oregon SWCD for payment on a DSL-2 for Ken Snodgrass in the amount of \$2,813.62 even though the landowner signed the application after board approval.

Commission policy states, “Landowners must sign and date the ‘Signature Page’ prior to the board approving the landowner request for cost-share assistance. In no instance should the date of board approval be prior to the date of landowner signature, or prior to the date of the technician signature, or prior to the date the ‘Board Approval Page’ is printed.”

On September 19, 2003, the landowner signed and dated the application. Someone then marked out the 19th and wrote September 4, 2003. The board and technician signed the application on September 4, 2003. Even though program staff has been give authority to approve claims when the landowner mistakenly enters the wrong date, they did not feel comfortable approving the claim with the significant difference of the two dates. In a letter from the district, it stated the landowner looked at the calendar incorrectly when he put the 19th on the application. The district clerk noticed the error and had the landowner change the date to September 4, 2003.

When asked if this situation had happened very often in Oregon County, Ms. Aberle stated she was not aware that it had.

Kirby VanAusdall made a motion to approve the board’s request. Larry Furbeck seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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b. Special Area Land Treatment (SALT)

1. Stoddard SWCD – Request for Amendment to Increase Obligation to the Landowner After Practice Started

April Brandt presented a request to allow approval of an amendment to increase the obligation for an N590 nutrient management application in the Jenkins Basin AgNPS SALT project.

Commission policy states in part that, “Amendments cannot be approved to increase the cost-share obligation after the practice has been started.”

N590 nutrient management practices are incentive practices approved for use in AgNPS SALT projects. This practice was designed to educate and demonstrate to the operator how the proper application of fertilizer can minimize entry of nutrients into surface and groundwater. The incentives are based on a dollar per acre rate set by the district board, but cannot exceed \$20 an acre per year, and not to exceed three years of payments with a limit of \$3,000 per year, per farm, per operator. Typically, the costs for fertilizer is incurred by the operator, whether or not they apply for this practice.

On June 5, 2003, the Stoddard board approved an application for 130.1 acres of N590 nutrient management in the Jenkins Basin AgNPS SALT project. The district was informed on January 13, 2004, that an error occurred on the application in regard to the number of acres approved. The conservation plan showed their intent to plan nutrient management on 130.1 acres for three years and the district had soil test information for 130.1 acres. There was no documentation for the additional 169.9 acres that showed planning was completed. Ms. Brandt stated that if the additional acres comply with commission policy and NRCS guidelines, the operator could apply for the nutrient management practice on those acres.

When asked about making a second application for the additional acres, Ms. Brandt stated that the operator could do that, but that a nutrient management plan must be completed prior to the operator signing the application and the operator must follow the nutrient management plan for one year before they are eligible to receive payment.

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Philip Luebbering made a motion to deny the board's request. Larry Furbeck seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

c. Loan Interest-share

1. Howard SWCD – Request to add a PTO Ditcher to the List of Eligible Load Interest-Share Equipment

Marcy Oerly presented a request from Howard SWCD to add a power take-off (PTO) ditcher to the list of eligible equipment for the Loan Interest-Share Program.

In a March 18, 2004 letter from the district, it stated they were requesting to add a PTO ditcher to the list for Loan Interest Share, for the purpose of cleaning out terraces. The approximate cost of the ditcher was \$5,150. Ms. Oerly briefly went over the current list of eligible equipment.

One of the eligible items was a scraper to be used to maintain terraces. The limited size of the scraper was not to exceed six cubic yards and the limited participation amount was \$8,000.

Ms. Oerly faxed the PTO ditcher information to Ron Miller, the State NRCS Agronomist, and to Dave Baker at the university for technical recommendations. According to NRCS, the machine could be used for terrace clean out, but was not the most desirable method. As the literature stated, the ditcher "expels soil and debris clear of the waterway" and "spoil pileup or ridging is eliminated." According to NRCS staff, that is not usually desired because the material is generally removed from the channel and used to rebuild the terrace ridge. NRCS also explained that the ditcher was much narrower than the terrace channel and that multiple passes would be needed to remove the sediment from the channel.

According to Philip Luebbering, a plow would pull soil out of the channel cleaning out the terrace, but would also help build up the terrace. Roger Hansen confirmed Mr. Luebbering's statement.

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Philip Luebbering made a motion to deny the request. Kirby VanAusdall seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

3. District Assistance Section - Continued

b. Supervisor Appointments

1. Miller SWCD

Jim Plassmeyer presented a request from Miller Soil and Water Conservation District to appoint Mike Keeth to fill the unexpired term of Bob Hix.

Philip Luebbering made a motion to approve the request. Kirby VanAusdall seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

H. NRCS REPORT

Roger Hansen updated the commission on some personnel changes. Alan Wolfe, State Administrative Officer, retired in December and was replaced by Jack Cronhardt, who has been on the job for a few weeks. Terry Cosby was selected as the Deputy State Conservationist in Idaho. His position is currently vacant. When asked about office closures, Mr. Hansen stated a report was submitted to the Secretary of Agriculture for her to decide when to act. Elizabeth Brown thanked Mr. Hansen for making it a priority to attend the meetings as the commission counts on technical advice he provides.

I. MASWCD REPORT

Steve Oetting stated the next board meeting is scheduled for April 19, 2004. He informed the commission that MASWCD supports Senator Klindt's bill.

J. LEGISLATIVE REPORT

Bill Wilson presented a legislative update on several bills. Senate Joint Resolution (SJR) 49 sponsored by Senator Klindt was referred to the Agriculture, Conservation and Parks Committee and has not been heard at this time. House Bill (HB) 1126 sponsored by Representative James Seigfreid proposes changes to the procedures for detachment of

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certain areas from a watershed district. Senate Bill (SB) 949 sponsored by Senator Steelman proposes transferring hearings on environmental issues to the Administrative Hearing Commission, is still in the Senate Commerce and Environment Committee. House Concurrent Resolution 10 sponsored by Representative Myers designates Menfro as the state soil, has passed in the House and was referred to Rules Committee in the Senate. Senate Bill 1128 sponsored by Senator Cauthorn is on the Senate Perfection Calendar. House Bill 1177 sponsored by Representative Guest had an executive session in the Senate Agriculture, Conservation and Parks Committee but was not reported out of the committee at this time. Senate Bill 1128 and House Bill 1177 both propose changes to the state statutes relating to concentrated animal feeding operations (CAFO). Included in these bills are provisions that will require the county soil and water districts to review and recommend for approval controls if the county wants to have controls that are more restrictive than state standards. These reviews will be based upon empirical peer-reviewed scientific and economic data.

When asked about the CAFO issue, Mr. Wilson stated that both bills proposed that the districts would be involved if the county wanted to set a control that was more stringent than the state level. He also stated the proposed legislation does not affect any of the statutes regarding the soil and water district, Chapter 278 Revised Statutes of Missouri. Philip Luebbering stated that his concern was that if the county controls were more stringent than NRCS specifications on livestock waste management practices, would the commission be required to use the county specifications rather than using NRCS specifications. Sarah Fast stated that if a county ordinance regarding CAFO were approved, the commission would have to follow its specifications. Roger Hansen stated that as far as NRCS standard specifications, they have to be in compliance with the federal, state, and local ordinances.

When asked if the commission would like to take position on Senator Klindt's resolution, Larry Furbeck stated that they should support it. When asked if the only downside to the resolution was the fact that there would not be enough time to do anything if the vote was to fail, Mr. Wilson stated that as it is currently written it would be voted on in 2008 and the tax would end on June 30, 2009.

The Chair asked to receive a second on the motion, but none was offered. The Chair declared that the motion died due to a lack of a second. The commissioners continued to discuss SJR 49. Steve Oetting inquired if the bill was just for eliminating the petition process and if the vote on the tax were to fail, then you could do the petition process to get it back on the ballot. Mr. Wilson stated there are other options to get the measure on the ballot. Mr. Wilson said that either another legislative proposal or an initiative petition could get the measure on the ballot. Scott Totten stated he did not know if six months was enough time to carry petitions or get the legislature to offer a constitutional amendment. He also stated there could be a break in service from June 30, 2009 and

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when the tax was reauthorized and recollected. That was the potential downside he saw with the way the bill was currently written. When asked if the association understood the downside, Mr. Oetting stated they did; however they were looking at energies involved with the petition process. Mr. Oetting verified they were in favor of the bill and asked the commission to show support for it.

Philip Luebbering made a motion to support the general concept of the bill if there could be more time between the vote on the renewing the tax and the end of the tax. Larry Furbeck seconded the motion. When asked by the chair, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously

K. STAFF REPORT

1. FY2005 Budget “Estimate” Authority Update

Sarah Fast presented Milt Barr’s update on the FY2005 budget “estimate” authority. The budget for the department was submitted to the full House Budget Committee with no changes to the SWCP numbers and including the “Estimate” indicators request by the department to be used instead of re-appropriation authority for the programs affected by discontinuing the authority.

It was reported that it appeared the full committee was waiting closer to April 15, 2004, to see how the general revenues were coming in, before approving the state budget. With the legislature on spring recess, the budget was scheduled to be reviewed again on Monday, March 29, 2004.

The Soil and Water Conservation Program revenues are from sales taxes and through February deposits were up 4.5 percent over the same period in FY2003. The Department of Revenue reported an increase in percentage rates of actual general sales tax revenues at the end of February to be up 5.8 percent for the year to date over last year and up 15 percent for the month of February. These rates did not include refunds for the reporting period.

Ms. Fast informed the commission that there was an issue fact sheet in the packet regarding information on the cost-share computer system that was discussed at the February commission meeting.

L. DATE OF NEXT MEETINGS

The date of the next commission meeting was set for Wednesday, May 19, 2004, beginning at 8:00 at DNR Conference Center in the Bennett Springs/Roaring River room in Jefferson City, Missouri.

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M. ADJOURNMENT

Kirby VanAusdall moved the meeting be adjourned. Philip Luebbering seconded the motion. Motion approved by consensus at 11:50 A.M.

Respectfully submitted,

Sarah E. Fast, Director
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman
Missouri Soil & Water Districts Commission

/tm